

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION

DRAKE ALLEN MATFIELD,)
Plaintiff,) Case No.: 4:22-CV-852-BCW
v.) JURY TRIAL REQUESTED
ESSIG AND ASSOCIATES, INC.,)
d/b/a MCDONALDS,)
Defendants.)

MOTION TO DISMISS

COMES NOW Defendant, ESSIG AND ASSOCIATES, INC., d/b/a MCDONALDS, by and through its attorneys, BETH C. BOGGS and BOGGS, AVELLINO, LACH & BOGGS, L.L.C., and for its Motion to Dismiss, states as follows:

1. The Plaintiff has filed a Complaint essentially arguing that he is being retaliated against by Essig and Associates, Inc. for making a charge of discrimination against his prior employer, Kaileyco Corp.

2. Essig and Associates is a McDonald's franchisee who purchased this McDonald's location. The charge of discrimination is not a liability that Essig assumed.

3. The Plaintiff falsely alleges that Essig management has threatened to kill him or shoot him if he filed a charge of discrimination.

4. Plaintiff also alleges that he is currently being hypnotized by the management of Essig and Associates.

5. The Defendant does not question whether a current employer can retaliate for taking action against a prior employer. What is unclear from the Plaintiff's Complaint, is how

the actions of Essig and Associates have been directed to any protected conduct of the Plaintiff. The Plaintiff indicates that he has been discriminated against on the basis that he is African American. However, the offending manager is also allegedly African American. He alleges that "females are smarter than males," but again fails to show in anyway how that is relevant to his charge of discrimination. He also claims that he is being discriminated against because of a mental impairment and weak knee. It is unclear how any of those claims relate to his charge against the prior employer.

6. He indicates that he believes he has been harassed because the Kaileyco Defendants were served with a lawsuit. He indicates that he seems to be experiencing harassment and scrutiny pursuing his prior employer.

7. It is not clear from the Complaint how he has been impacted and for what conduct.

8. He claims that his hours have been reduced, but does not indicate how the reduction in his hours is related to race discrimination, retaliation or disability discrimination. He claims that he has been subjected to "open humiliation" without providing any detail of what that means.

9. Furthermore, he claims that he has been "reprehended for doing what he was told to do." Again, there is insufficient detail to even understand what he is claiming.

10. Furthermore, he complains that the Defendants have engaged in malicious attempts to diminish his work performance. Defendants cannot determine what is being claimed.

11. He also claims that the discrimination has been facilitated by a new black female manager whose name he does not know. In addition, he claims that some of the "employees and customers" are discriminating against him.

12. He believes the discrimination has occurred because some of the crew has information regarding the fact that he filed litigation and he did not disclose that information to them.

13. It is not clear from the Complaint exactly what protected activities he has engaged in since filing the charge against the prior employer that the current employer is retaliating against. The nexus between the prior action and protected activity and the action of the current employer is not set forth in the Complaint and for that reason the Complaint should be dismissed.

WHEREFORE, for the foregoing reasons, Defendant respectfully request that this Court enter an Order dismissing Plaintiff's Complaint and for such further and other relief as this court to deem just and proper.

DEFENDANT DEMANDS TRIAL BY JURY

Respectfully submitted,

ESSIG AND ASSOCIATES, INC.
d/b/a MCDONALDS

By: /s/ Beth C. Boggs
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing document was electronically filed with the Clerk of the United States District Court, Western District of Missouri, by using the Court's CM/ECF Electronic Filing System this 30th day of May, 2023, with an electronic copy to be served by operation of the Court's electronic filing system upon the following:

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